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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/813,415	03/21/2001	Mark Dilman	1-6	2405

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EXAMINER

BILGRAMI, ASGHAR H

ART UNIT PAPER NUMBER

2143

DATE MAILED: 03/07/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

**Office Action Summary**

Application No.

09/813,415

Applicant(s)

DILMAN ET AL.

Examiner

Asghar Bilgrami

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 20 December 2005.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-12 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-12 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 21 March 2001 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |   |   |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)             | 4) <input type="checkbox"/> Interview Summary (PTO-413)                     |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)    | Paper No(s)/Mail Date. _____  |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| Paper No(s)/Mail Date _____   | 6) <input type="checkbox"/> Other: _____                                    |

**DETAILED ACTION**

***Claim Rejections - 35 USC § 103***

1. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

2. Claims 1-12 are rejected under 35 U.S.C. 103(a) as being unpatentable over Mandel et al (U.S. 6,170,009) and Robinson et al (U.S. 6,570,867).

3. As per claims 1, 7 & 8 Mandel disclosed a method for monitoring usage of resources allocated to a plurality of nodes of a network (col.1, lines 53-67 & col.2, lines 1-7) comprising the steps of (a) assigning to a node, a parameter indicative of the usage of said resources, (b) locally monitoring at the node the usage of said resources (col.3, lines 45-54 & col.4, lines 1-14); (c) reporting to a centralized management station of the network when the usage exceeds a predetermined threshold (col.3, lines 54-67). However Mandel did not explicitly disclose initiating a global poll of resources of at least one other node from the plurality of nodes of the network by the centralized management station in response to reporting from the node. In the same field of endeavor Robinson disclosed initiating a global poll of resources of at least one other node from the plurality of nodes of the network by the centralized management station in response to reporting from the node (col.2, lines 60-67, col.3, lines 1-12, col.5, lines 3-55, col.12, lines 26-44 & col.13, lines 46-58).

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It would have been obvious to one in the ordinary skill in the art at the time the invention was made to have incorporated central management station initiating a poll of resources of at least one node in response to the reporting from the node disclosed by Robinson in a method of monitoring usage of resources in nodes of a network as disclosed by Mandal in order to improve the management and monitoring of paths and routes available in a network resulting in a more stable and robust network for users.

4. As per claim 4 Mandal-Robinson disclosed the method of claim 1, wherein parameter is indicative of typical usage of the resources in the node (Mandal col.3, lines 45-67).

5. As per claim 5 Mandal-Robinson disclosed the method of claim 1, wherein said parameter is indicative of the rate of a change of usage of the resources in the node (Mandal col.3, lines 45-67).

6. As per claim 6 Mandal-Robinson disclosed the method of claim 1, further including the step of adjusting the usage of the resources in the node (Mandal col.6, lines 1-27).

7. As per claims 9 & 10 Mandal disclosed a technique for managing a global resource of a network in order to reduce the amount of monitoring related traffic, comprising the steps of partitioning the global resource into a plurality of node resources, wherein each node resource is assigned to a separate node of the network, assigning a budget to each said node resource; reporting to a management station of the network when a node exceeds the assigned budget, as

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determined using local monitoring to the node resource (col.4, lines 52-56 & col.5, lines 31-44).

However Mandal did not explicitly disclose initiating a poll by the management station of node resource usage by the nodes of the network in response to receiving reporting from the node wherein the assigned budget is exceeded in at least one node.

In the same field of endeavor Robinson disclosed initiating a poll of node resource usage by the nodes of the network when the assigned budget is exceeded in at least one node (col.2, lines 60-67, col.3, lines 1-12, col.5, lines 3-12, col.12, lines 26-44 & col.13, lines 46-58).

It would have been obvious to one in the ordinary skill in the art at the time the invention was made to have incorporated initiating a poll of resources of at least one node when assigned budget is exceeded as disclosed by Robinson in a technique for managing a global resource of a network as disclosed by Mandal in order to improve the management and monitoring of paths and routes available in a network resulting in a more stable and robust network for users.

8. As per claim 11 Mandal-Robinson disclosed the method defined in claim 8 wherein said nodes are selected from the group consisting of routers, switches, bridges and firewall devices (Mandal col.7, lines 29-39).

9. As per claim 12 Mandal-Robinson disclosed the method defined in claim 8 wherein said nodes are selected from the group consisting of servers, hosts, and layer 4-7 switches (Mandal col.2, lines 66-67 & col.3, lines 1-12).

***Response to Arguments***

10. Applicant's arguments filed 12/20/2005 have been fully considered but they are not persuasive.

11. In response to applicant's arguments against the references individually, one cannot show nonobviousness by attacking references individually where the rejections are based on combinations of references. See *In re Keller*, 642 F.2d 413, 208 USPQ 871 (CCPA 1981); *In re Merck & Co.*, 800 F.2d 1091, 231 USPQ 375 (Fed. Cir. 1986).

12. Applicant argued that Robinson reference fails to bridge the substantial gap between the Mendal reference and applicant's reference. In particular, the Robinson reference discloses a framework for network management by monitoring the network level concept of routes and paths".

As to applicant's arguments both Mendal and Robinson references deal with monitoring & controlling individual network elements in with respect to certain defined parameters or policies. In response to applicants argument regarding Robinson reference above, the examiner would like to point out that Robinson reference deals with managing routes and paths after receiving performance information from individual elements through local resident agents (col.4, lines 58-67 & col.5, lines 1-55).

*Conclusion*

13. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Asghar Bilgrami whose telephone number is 571-272-3907. The examiner can normally be reached on M-F, 8:00-5:00PM.


If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, David Wiley can be reached on 571-272-3923. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

  
AB

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Art Unit 2143

  
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